

REMARKS

Claims 19 and 20 are added, and therefore claims 10 to 13 and 15 to 20 are now pending and being considered.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claim 12 has been corrected as to a spelling error. Approval and entry are respectfully requested.

Claims 10 to 13 and 15 to 18 were rejected under 35 U.S.C. § 102(b) as anticipated by Ardon et al., U.S. Patent No. 5,105,420.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (*See* M.P.E.P. § 2112; emphasis in original; and *see Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

The Office has not shown how the Ardon reference identically discloses each and every claim feature of independent claims 10 and 15. Specifically, Ardon does not identically disclose (nor suggest) the feature of a predefinable code that includes information pertaining to a waiting time. The Examiner has not described which element of the invention in Ardon is relied on to meet this limitation. The Office Action only refers to a central switch

2055 with control unit 2061 for switching communications between different selective switching units 2031 and 2032. The Ardon reference, however, does not identically disclose (nor suggest) the feature of a predefinable code pertaining to a waiting time when switching communications between different units of this switching system, as provided for in the context of the claim. The Office also does not explain how this switching system necessarily includes such a predefinable code.

The Office Action asserts that the switching function in Ardon “will lead to the case when one control unit is selected and the other one is not selected (suppressed) during a period of time.” This conclusory assertion simply does not remedy the shortcomings of the Ardon reference for two reasons.

First, it is not even asserted that the period of time during which one control unit of the Ardon switching system is not selected is necessarily determined by a predefinable code. Rather, the Office Action conveniently ignores this claim feature. Although a control unit is not selected for a period of time in the Ardon reference, this in no way requires the period of time to have been specifically determined by a predefinable code prior to the beginning of that time period.

Second, the Office Action mistakenly equates a control unit that is not selected with a function that has been suppressed. Claims 10 and 15 require the other function to be suppressed during the predefined waiting time. The Ardon reference only refers to a switching between different distributed elements. In the context of the presently claimed subject matter, there is a switching between functions with regard to the same line. The other function has to be suppressed and not only switched because this function is normally available on the same line as the selected function. One function is made available and all others are suppressed and not simply switched.

Accordingly, as presented, claims 10 and 15 are allowable. It is therefore respectfully requested that the anticipation rejections of these claims be withdrawn.

Claims 11 and 12 depend from claim 10, and are allowable for the same reasons. It is therefore respectfully requested that the anticipation rejections of these claims be withdrawn.

With respect to claims 13 and 18, the Office has not shown a bidirectional communication connection between the control unit and another control unit or a computer. The Office Action cites Figs. 4a and 4b of the Ardon reference as meeting this claim feature.

However, those figures do not in any way show that control unit 2061 provides the function of a bidirectional communication connection with another control unit or a computer.

Accordingly, and for the reasons explained above as to claims 10 and 15 -- from which claims 13 and 18 depend, claims 13 and 18 are allowable. It is therefore respectfully requested that the anticipation rejections of these claims be withdrawn.

With respect to claim 16, the Office has not shown the existence of a predefinable code for suppressing a function path in the Ardon reference, as discussed above as to claims 10 and 15. Therefore, the Ardon reference does not identically disclose (nor suggest) the feature of an arrangement additional to and independent from a predefinable code for suppressing a function path, as provided for in the context of the claimed subject matter.

Accordingly, and for the reasons presented above as to claim 15 from which claim 16 depends, claim 16 is allowable. It is therefore respectfully requested that the anticipation rejection of this claim be withdrawn.

Claim 17 depends from claim 15, and is therefore allowable for the same reasons as claim 15. It is therefore respectfully requested that the anticipation rejection of this claim be withdrawn.

Claims 19 and 20 are fully supported by the originally filed specification and introduce no new matter. Claims 19 and 20 are allowable for the same reasons as their respective base claims 10 and 15. Claims 19 and 20 are allowable for the further reason that the Ardon reference does not disclose that the non-selected functions are suppressed without resetting any hardware arrangements.

Accordingly, claims 10 to 13 and 15 to 20 are allowable.

Conclusion

It is therefore respectfully submitted that all of pending and considered claims 10 to 13 and 15 to 20 are allowable. It is therefore respectfully requested that the rejections be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.

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